

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

..title

AN ORDINANCE relating to taxation; imposing a tax on transportation network companies; adding a new Chapter 5.39 to the Seattle Municipal Code; and amending Sections 5.30.010, 5.30.060, 5.55.010, 5.55.040, 5.55.060, 5.55.150, 5.55.165, 5.55.220, and 5.55.230 of the Seattle Municipal Code.

..body

WHEREAS, transportation network companies (TNCs) provide application dispatch services that allow passengers to directly request the dispatch of drivers via the internet using mobile interfaces such as smartphone applications; and

WHEREAS, over 24 million TNC trips were taken in Seattle in 2018; and

WHEREAS, the Mayor and City Council seek to invest in affordable housing near transit, transportation and transit investments including the Center City Connector Streetcar, and a driver conflict resolution center using proceeds from a tax on TNC companies providing 1,000,000 rides per quarter or more on a per-ride basis; and

WHEREAS, the Director of Finance and Administrative Services (FAS) assesses a per-ride regulatory fee for the costs to FAS of operating and enforcing the TNC regulatory scheme; and

WHEREAS, as of the date of submitting this ordinance to establish a tax on TNC rides, the fee to regulate TNCs was \$0.14; and

WHEREAS, The City of Seattle intends to exercise its taxing authority, as granted by the Washington State Constitution and as authorized by the Washington State Legislature, and impose a tax on TNCs operating in Seattle; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. A new Chapter 5.39 is added to the Seattle Municipal Code as follows:

Chapter 5.39 TRANSPORTATION NETWORK COMPANY TAX

5.39.010 Administrative provisions

All provisions contained in Chapter 5.55 shall have full force and application with respect to taxes imposed under this Chapter 5.39 except as may be expressly stated to the contrary herein.

5.39.020 Definitions

The definitions contained in Chapter 5.30 shall be fully applicable to this Chapter 5.39 except as may be expressly stated to the contrary herein. The following additional definitions shall apply throughout this Chapter 5.39:

“Application dispatch” means technology that allows consumers to directly request dispatch of drivers for trips and/or allows drivers or TNCs to accept payments for trips via the internet using mobile interfaces such as, but not limited to, smartphone and tablet applications.

“For-hire vehicle” has the same meaning as given in Section 6.310.110.

“Motor vehicle” has the same meaning as given in Section 6.310.110.

“Operating in Seattle” means, with respect to a TNC, providing application dispatch services to any affiliated driver at any time for the transport of any passenger for compensation from a point within the geographical confines of Seattle.

“Personal vehicle” means a motor vehicle that is not a taxicab or for-hire vehicle, that is subject to regulation under Chapter 6.310, and that is used by a driver to provide trips arranged through a TNC application dispatch system.

“Taxicab” has the same meaning given in Section 6.310.110.

“TNC” means a transportation network company.

“TNC dispatched trip” or “trip” means the provision of transportation by a transportation network company driver to a passenger in a TNC vehicle through the use of a TNC’s application dispatch system. The term “TNC dispatched trip” does not include transportation provided by taxicabs or for-hire vehicles:

“TNC driver” or “driver” means a driver, licensed or required to be licensed under Chapter 6.310, affiliated with, and accepting dispatched trips from, a TNC.

“TNC vehicle” means a personal motor vehicle used for the transportation of passengers for compensation that is affiliated with a TNC.

“Transportation network company” means a person, licensed or required to be licensed under Chapter 6.310, operating in Seattle that offers prearranged transportation services for compensation using an online-enabled application or platform to connect passengers with drivers using their personal vehicles.

“Trip that originates in Seattle” means a TNC dispatched trip where a passenger enters a TNC vehicle within Seattle city limits.

5.39.030 Tax imposed—Rates

A. There is imposed a tax on every TNC operating in Seattle. The amount of the tax due shall be the tax rate under subsection 5.39.030.B per trip that originates in Seattle.

B. The tax rate shall be:

1. Fifty-one cents per trip; and
2. In addition to the tax rate per trip imposed under subsection 5.39.030.B.1, the taxpayer shall pay a supplemental rate per trip in an amount to be set by the Director. For the period from July 1, 2020, through December 31, 2020, the Director shall set the supplemental rate under this subsection 5.39.030.B.2 at an amount equal to \$0.14 minus the total fees per ride

imposed under subsection 6.310.150.B. If the total fees per ride imposed under subsection 6.310.150.B exceed \$0.14, then the supplemental rate shall be zero. For the period after December 31, 2020, the Director shall set the supplemental rate under this subsection 5.39.030.B.2 at \$0.06.

5.39.040 Deductions

A taxpayer may deduct from the measure of the tax any trip that originates in Seattle and terminates outside the state of Washington.

5.39.050 Tax threshold

No tax shall be due under Section 5.39.030 from a TNC that reports fewer than 1,000,000 trips that originate in Seattle in the prior calendar quarter. Any TNC below this threshold shall complete and file a return and declare no tax due on the return. The TNC shall enter on the tax return the number of trips originating in Seattle even though no tax may be due.

5.39.060 Transportation network company tax—When due

The tax imposed by this Chapter 5.39 shall be due and payable in accordance with Section 5.55.040. The transportation network company tax shall be due and payable in quarterly installments. The Director may use discretion to assign businesses to a monthly or annual reporting period. Forms for such filings shall be prescribed by the Director. Persons discontinuing their business activities in Seattle shall report and pay the transportation network company tax at the same time as they file their final business license tax return.

5.39.070 Excise tax in addition to other license fees and taxes—Part of operating overhead

A. The tax imposed by Chapter 5.39 is a general excise tax on the privilege of conducting certain business within Seattle and shall be in addition to any license fee or tax

imposed or levied under any other law, statute, or ordinance whether imposed or levied by the City, state, or other governmental entity or political subdivision.

B. It is not the intention of this Chapter 5.39 that the tax imposed herein be construed as a tax upon the purchasers or customer, but that tax shall be levied upon, and collectible from, the person engaging in the business activities herein designated and that such tax shall constitute a part of the operating overhead or cost of doing business of such persons.

5.39.080 Transportation network company tax—Constitutional limitation

Notwithstanding anything to the contrary in this Chapter 5.39, if imposition of the tax under this Chapter 5.39 would place an undue burden upon interstate commerce or violate constitutional requirements, a taxpayer shall be allowed a credit to the extent necessary to preserve the validity of the tax, and still apply the tax to as much of the taxpayer's activities as may be subject to the City's taxing authority.

Section 2. Section 5.30.010 of the Seattle Municipal Code, last amended by Ordinance 125324, is amended as follows:

5.30.010 Definition provisions

The definitions contained in this Chapter 5.30 shall apply to the following chapters of the Seattle Municipal Code: Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Tax), 5.39 (Transportation Network Company Tax), 5.40 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square Footage Tax), 5.48 (Business Tax—Utilities), 5.50 (Firearms and Ammunition Tax), 5.52 (Gambling Tax), 5.53 (Sweetened Beverage Tax), and 5.55 (General Administrative Provisions) unless expressly provided for otherwise therein, and shall also apply to other chapters and sections of the Seattle Municipal Code in the manner and to the extent expressly

1 indicated in each chapter or section. Words in the singular number shall include the plural and
2 the plural shall include the singular. Words in one gender shall include ~~((the))~~ all other genders.

3 Section 3. Subsection 5.30.060.C of the Seattle Municipal Code, which section was last
4 amended by Ordinance 125324, is amended as follows:

5 **5.30.060 Definitions, T—Z**

6 * * *

7 C. “Taxpayer” means any “person,” as herein defined, required by Chapter 5.55 to
8 have a business license tax certificate, or liable for any license, tax, or fee, or for the collection of
9 any tax or fee, under Chapters 5.32 (Revenue Code), 5.35 (Commercial Parking Tax), 5.39
10 (Transportation Network Company Tax), 5.40 (Admission Tax), 5.45 (Business License Tax),
11 5.46 (Square Footage Tax), 5.48 (Business Tax—Utilities), 5.50 (Firearms and Ammunition
12 Tax), 5.52 (Gambling Tax), and 5.53 (Sweetened Beverage Tax), or who engages in any
13 business or who performs any act for which a tax or fee is imposed under those chapters.

14 * * *

15 Section 4. Section 5.55.010 of the Seattle Municipal Code, last amended by Ordinance
16 125324, is amended as follows:

17 **5.55.010 Application of chapter stated**

18 Unless expressly stated to the contrary in each chapter, the provisions of this Chapter 5.55 shall
19 apply with respect to the licenses and taxes imposed under this Chapter 5.55 and Chapters 5.32
20 (Amusement Devices), 5.35 (Commercial Parking Tax), ~~((5.37 (Employee Hours Taxes),))~~ 5.39
21 (Transportation Network Company Tax), 5.40 (Admission Tax), 5.45 (Business License Tax),
22 5.46 (Square Footage Tax), 5.48 (Business Tax—Utilities), 5.50 (Firearms and Ammunition

1 Tax), 5.52 (Gambling Tax), 5.53 (Sweetened Beverage Tax), and under other titles, chapters, and
2 sections in such manner and to such extent as indicated in each such title, chapter, or section.

3 Section 5. Subsection 5.55.040.A of the Seattle Municipal Code, which section was last
4 amended by Ordinance 125324, is amended as follows:

5 **5.55.040 When due and payable—Reporting periods—Monthly, quarterly, and annual**
6 **returns—Threshold provisions—Computing time periods—Failure to file returns**

7 A. Other than any annual license fee or registration fee assessed under this Chapter
8 5.55, the taxes imposed by Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking
9 Tax), 5.39 (Transportation Network Company Tax), 5.40 (Admission Tax), 5.45 (Business
10 License Tax), 5.46 (Square Footage Tax), 5.48 (Business Tax—Utilities), 5.50 (Firearms and
11 Ammunition Tax), 5.52 (Gambling Tax), and 5.53 (Sweetened Beverage Tax) shall be due and
12 payable in quarterly installments. The Director may use discretion to assign businesses to a
13 monthly or annual reporting period depending on the tax amount owing or type of tax. Taxes
14 imposed by subsections 5.52.030.A.2 and 5.52.030.B.2 for ~~((punchboards))~~ punch boards and
15 pull-tabs shall be due and payable in monthly installments. Tax returns and payments are due on
16 or before the last day of the next month following the end of the assigned reporting period
17 covered by the return.

18 * * *

19 Section 6. Subsection 5.55.060.A of the Seattle Municipal Code, which section was last
20 amended by Ordinance 125324, is amended as follows:

**5.55.060 Records to be preserved—Examination—Inspection—Search warrants—Estoppel
to question assessment**

A. Every person liable for any fee or tax imposed by this Chapter 5.55 and Chapters 5.32, 5.35, 5.39, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, and 5.53 shall keep and preserve, for a period of five years after filing a tax return, such records as may be necessary to determine the amount of any fee or tax for which the person may be liable; which records shall include copies of all federal income tax and state tax returns and reports made by the person. All books, records, papers, invoices, ticket stubs, vendor lists, gambling games, and payout information, inventories, stocks of merchandise, and other data, including federal income tax and state tax returns, and reports needed to determine the accuracy of any taxes due, shall be open for inspection or examination at any time by the Director or a duly authorized agent. Every person's business premises shall be open for inspection or examination by the Director or a duly authorized agent. For the purposes of this Section 5.55.060, for the tax imposed by Chapter 5.53, "business premises" means wherever the person's business records and tax documents are maintained and does not mean every site owned or operated by the person.

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Section 7. Subsection 5.55.150.E of the Seattle Municipal Code, which section was last amended by Ordinance 125324, is amended as follows:

5.55.150 Appeal to the Hearing Examiner

* * *

E. The Hearing Examiner shall ascertain the correct amount of the tax, fee, interest, or penalty due either by affirming, reversing, or modifying an action of the Director. Reversal or modification is proper if the Director's assessment or refund denial violates the terms of this

Chapter 5.55, or Chapters 5.30, 5.32, 5.35, ~~((5.37,))~~ 5.39, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, or 5.53.

Section 8. Section 5.55.165 of the Seattle Municipal Code, last amended by Ordinance 125324, is amended as follows:

5.55.165 Director of Finance and Administrative Services to make rules

The Director of Finance and Administrative Services shall have the power and it shall be the Director's duty, from time to time, to adopt, publish, and enforce rules and regulations not inconsistent with this Chapter 5.55, with Chapters 5.30, 5.32, 5.35, 5.39, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, or 5.53, or with law for the purpose of carrying out the provisions of such chapters, and it shall be unlawful to violate or fail to comply with any such rule or regulation.

Section 9. Subsections 5.55.220.A and 5.55.220.B of the Seattle Municipal Code, which section was last amended by Ordinance 125324, are amended as follows:

5.55.220 Unlawful actions—Violation—Penalties

A. It shall be unlawful for any person subject to the provisions of this Chapter 5.55 or Chapters 5.32, 5.35, 5.39, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, and 5.53:

1. To violate or fail to comply with any of the provisions of this Chapter 5.55, or Chapters 5.32, 5.35, 5.39, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, and 5.53, or any lawful rule or regulation adopted by the Director;

2. To make or manufacture any license required by this Chapter 5.55 except upon authority of the Director;

3. To make any false statement on any license, application, or tax return;

4. To aid or abet any person in any attempt to evade payment of a license fee or tax;

5. To refuse admission to the Director to inspect the premises and/or records as required by this Chapter 5.55, or to otherwise interfere with the Director in the performance of duties imposed by Chapters 5.32, 5.35, 5.39, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, and 5.53;

6. To fail to appear or testify in response to a subpoena issued pursuant to Section 3.02.120 in any proceeding to determine compliance with this Chapter 5.55 and Chapters 5.32, 5.35, 5.39, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, and 5.53;

7. To testify falsely in any investigation, audit, or proceeding conducted pursuant to this Chapter 5.55;

8. To continue to engage in any business activity, profession, trade, or occupation after the revocation of or during a period of suspension of a business license tax certificate issued under Section 5.55.030; or

9. In any manner, to hinder or delay the City or any of its officers in carrying out the provisions of this Chapter 5.55 or Chapters 5.32, 5.35, 5.39, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, and 5.53.

B. Each violation of or failure to comply with the provisions of this Chapter 5.55, or Chapters 5.32, 5.35, (~~5.37~~), 5.39, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, or 5.53 shall constitute a separate offense. Except as provided in subsection 5.55.220.C, any person who commits an act defined in subsection 5.55.220.A is guilty of a gross misdemeanor, punishable in accordance with Section 12A.02.070. The provisions of Chapters 12A.02 and 12A.04 apply to the offenses defined in subsection 5.55.220.A, except that liability is absolute and none of the mental states described in Section 12A.04.030 need be proved.

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Section 10. Subsection 5.55.230.A of the Seattle Municipal Code, which section was last amended by Ordinance 125324, is amended as follows:

5.55.230 Denial, revocation of, or refusal to renew business license tax certificate

A. The Director, or the Director's designee, has the power and authority to deny, revoke, or refuse to renew any business license tax certificate or amusement device license issued under the provisions of this Chapter 5.55. The Director, or the Director's designee, shall notify such applicant or licensee in writing by mail in accordance with Section 5.55.180 of the denial of, revocation of, or refusal to renew the license and on what grounds such a decision was based. The Director may deny, revoke, or refuse to renew any business license tax certificate or other license issued under this Chapter 5.55 on one or more of the following grounds:

1. The license was procured by fraud or false representation of fact.
2. The licensee has failed to comply with any provisions of this Chapter 5.55.
3. The licensee has failed to comply with any provisions of Chapters 5.32, 5.35, 5.39, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, or 5.53.
4. The licensee is in default in any payment of any license fee or tax under Title 5 or Title 6.

Section 11. Severability. If any part, provision, or section of this ordinance is held to be void or unconstitutional, all other parts, provisions, and sections of this ordinance not expressly so held to be void or unconstitutional shall continue in full force and effect.

Section 12. It is the intent of the Mayor and the Council through the annual budget process to use the proceeds of the tax imposed by Seattle Municipal Code Section 5.39.030 for the following purposes:

- A. Administrative costs related to the tax and regulations of TNC drivers;

- 1 B. Investment in affordable housing near transit;
- 2 C. Transportation and transit investments, including the Center City Connector
- 3 Streetcar, and
- 4 D. A driver conflict resolution center.
- 5 Section 13. Sections 1 through 12 of this ordinance shall take effect on July 1, 2020.

Section 14. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 2019,
and signed by me in open session in authentication of its passage this _____ day of _____, 2019.

President _____ of the City Council

Approved by me this _____ day of _____, 2019.

Jenny A. Durkan, Mayor

Filed by me this _____ day of _____, 2019.

Monica Martinez Simmons, City Clerk

(Seal)